

REMARKS

Claims 14, 19, 21 and 22 have been allowed. Claims 1-3, 5, 6, 8 and 10-22 are pending in the present application. Reconsideration and withdrawal of the present rejections in view of the remarks presented herein are respectfully requested..

Rejection under 35 U.S.C. §102(e)

Claims 1-3, 5, 6, 15-18 and 20 were rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by Hatakeyama et al. (US 7,402,712).

Hatakeyama et al. was published on July 22, 2008, and was filed on June 8, 2004. Although Hatakeyama et al. claims priority to Japanese Patent Application No. 2003-163320, filed June 9, 2003, its effective prior art date is **June 8, 2004**. According to M.P.E.P. § 2136.03 (I), “35 U.S.C. 102(e) is explicitly limited to certain references “filed in the United States before the invention thereof by the applicant” (emphasis added). Foreign applications’ filing dates that are claimed (via 35 U.S.C. 119(a) - (d), (f) or 365(a)) in applications, which have been published as U.S. or WIPO application publications or patented in the U.S., may not be used as 35 U.S.C. 102(e) dates for prior art purposes.” Thus, the filing date of the Japanese priority application corresponding to Hatakeyama et al. cannot be used as a 102(e) date for prior art purposes.

The present application is the U.S. National Phase filing of PCT/JP2005/001228, filed on January 28, 2005, which claims priority to Japanese Patent Application No. 2004-134585, filed on **April 28, 2004**, which is prior to the US filing date of the Hatakeyama et al. reference. A certified translation of JP 2004-134585 was filed with the response to the previous Office Action on September 23, 2008. As noted in the previous response, the disclosure of this certified translation is substantially the same as the present application, and all of the claims pending in the present application are fully supported by this certified translation. Thus, all of the presently pending claims are entitled to the April 28, 2004 priority date. Accordingly, Hatakeyama et al. does not qualify as prior art against the present application.

In view of the comments presented above, Applicants respectfully request reconsideration and withdrawal of the rejection under 35 U.S.C. § 102(e).

Rejection under 35 U.S.C. §103(a)

Claims 8 and 10-13 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Park et al. (US 6,753,126) in view of Hatakeyama et al. (US 7,189,493). As noted above, Hatakeyama et al. does not qualify as prior art against the present claims. Thus, the rejection over Park et al. in view of Hatakeyama et al. is now moot.

In view of the comments provided above, Applicants respectfully request reconsideration and withdrawal of the rejection under 35 U.S.C. § 103(a).

CONCLUSION

In view of the foregoing, the Applicants believe that the present application is fully in condition for allowance, and such action is earnestly solicited. Nevertheless, should the Examiner identify any impediments to the allowance of the application, the Examiner is encouraged to contact the undersigned by telephone in order to attempt to resolve any such impediments.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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